

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST**

FINANCIAL STATEMENTS

Years ended December 31, 2008 and 2007

NY TRANSPORTATION WORKERS' COMPENSATION TRUST

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REPORT OF INDEPENDENT AUDITORS

To the Board of Trustees and Members of the
NY Transportation Workers' Compensation Trust

We have audited the accompanying balance sheet of NY Transportation Workers' Compensation Trust (the "Trust") as of December 31, 2008 and 2007, and the related statements of operations, changes in members' equity (deficit), and cash flows for the years then ended. These financial statements are the responsibility of the Trust's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As discussed in Note 1 to the financial statements, during 2008 the Board of Trustees voted to voluntarily terminate their status as a group self-insurer effective December 31, 2008. Effective January 1, 2009, the Trust no longer provides workers' compensation coverage.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of NY Transportation Workers' Compensation Trust as of December 31, 2008 and 2007, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

UHY LLP

Albany, New York
April 23, 2009

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
BALANCE SHEETS
December 31, 2008 and 2007**

	<u>2008</u>	<u>2007</u>
ASSETS		
Cash and cash equivalents	\$ 5,180,150	\$ 5,490,318
Investments	54,787,359	50,808,607
Contributions receivable	507,113	374,404
Prepaid expenses and other assets	71,526	74,045
Interest receivable	541,947	515,787
Reinsurance recoverable	1,438,265	1,133,471
Reinsurance receivable	<u>1,266,283</u>	<u>2,412,448</u>
Total assets	<u>\$ 63,792,643</u>	<u>\$ 60,809,080</u>
LIABILITIES		
Reserve for loss and loss adjustment expenses	\$ 61,218,430	\$ 49,963,358
Accrued New York State assessments	6,915,327	6,149,894
Accrued expenses	140,232	59,932
Contributions received in advance and refunds payable	57,281	2,011,135
Members dividends payable	<u>-</u>	<u>1,756,699</u>
Total liabilities	<u>68,331,270</u>	59,941,018
MEMBERS' EQUITY (DEFICIT)		
Members' equity (deficit)	<u>(4,538,627)</u>	<u>868,062</u>
Total liabilities and members' equity (deficit)	<u>\$ 63,792,643</u>	<u>\$ 60,809,080</u>

See notes to financial statements.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
STATEMENTS OF OPERATIONS
Years Ended December 31, 2008 and 2007**

	<u>2008</u>	<u>2007</u>
Revenues		
Contributions earned	\$ 32,547,027	\$ 38,109,742
Ceded premium - excess insurance	<u>(2,437,605)</u>	<u>(2,836,756)</u>
Net contributions earned	30,109,422	35,272,986
Investment income, net	2,570,834	2,291,879
Other income	<u>80</u>	<u>120</u>
Total revenues	<u>32,680,336</u>	<u>37,564,985</u>
Expenses		
Loss and loss adjustment expenses incurred, net of losses recoverable	29,360,773	20,609,270
Management, general and administrative expenses	7,244,983	7,409,544
New York State assessments	4,805,572	5,743,498
Dividends to members	<u>(1,756,699)</u>	<u>1,756,699</u>
Total expenses	<u>39,654,629</u>	<u>35,519,011</u>
Net (loss) income	<u>\$ (6,974,293)</u>	<u>\$ 2,045,974</u>

See notes to financial statements.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
STATEMENTS OF CHANGES IN MEMBERS' EQUITY (DEFICIT)
Years Ended December 31, 2008 and 2007**

	<u>Accumulated Other Comprehensive Income (Loss)</u>	<u>Retained Earnings Accumulated (Deficit)</u>	<u>Total Members' Equity (Deficit)</u>	<u>Comprehensive Income</u>
Balance at December 31, 2006	\$ (531,500)	\$ (2,045,974)	\$ (2,577,474)	
Net income	-	2,045,974	2,045,974	\$ 2,045,974
Other comprehensive income				
Unrealized net holding gains arising during the year	1,487,690	-	1,487,690	1,487,690
Reclassification adjustment for net gains realized during the year	<u>(88,128)</u>	<u>-</u>	<u>(88,128)</u>	<u>(88,128)</u>
Total comprehensive income				<u><u>\$ 3,445,536</u></u>
Balance at December 31, 2007	868,062	-	868,062	
Net loss	-	(6,974,293)	(6,974,293)	\$ (6,974,293)
Other comprehensive loss				
Unrealized net holding gains arising during the year	1,625,854	-	1,625,854	1,625,854
Reclassification adjustment for net gains realized during the year	<u>(58,250)</u>	<u>-</u>	<u>(58,250)</u>	<u>(58,250)</u>
Total comprehensive loss				<u><u>\$ (5,406,689)</u></u>
Balance at December 31, 2008	<u><u>\$ 2,435,666</u></u>	<u><u>\$ (6,974,293)</u></u>	<u><u>\$ (4,538,627)</u></u>	

See notes to financial statements.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
STATEMENTS OF CASH FLOWS
Years Ended December 31, 2008 and 2007**

	<u>2008</u>	<u>2007</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Net (loss) income	\$ (6,974,293)	\$ 2,045,974
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Amortization of bond premium (discount), net	20,973	(28,556)
Gain on sale of investments, net	(58,250)	(88,128)
Net change in assets and liabilities:		
Contributions receivable	(132,709)	185,598
Prepaid expenses and other assets	2,519	21,366
Interest receivable	(26,160)	(162,732)
Reinsurance receivable and recoverable	841,371	(1,657,986)
Reserve for loss and loss adjustment expenses	11,255,072	7,052,400
Accrued New York State assessments	765,433	3,441,214
Accrued expenses	80,300	(10,344)
Members dividends payable	(1,756,699)	1,756,699
Contributions received in advance and refunds payable	<u>(1,953,854)</u>	<u>598,985</u>
Net cash provided by operating activities	<u>2,063,703</u>	<u>13,154,490</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Cost of investments acquired	(18,957,287)	(21,358,029)
Proceeds from investments sold or matured	<u>16,583,416</u>	<u>9,091,270</u>
Net cash used in investing activities	<u>(2,373,871)</u>	<u>(12,266,759)</u>
Net (decrease) increase in cash and cash equivalents	(310,168)	887,731
Cash and cash equivalents at beginning of year	<u>5,490,318</u>	<u>4,602,587</u>
Cash and cash equivalents at end of year	<u>\$ 5,180,150</u>	<u>\$ 5,490,318</u>

See notes to financial statements.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 1 — ORGANIZATION

The NY Transportation Workers' Compensation Trust (the "Trust") was organized to create a nonprofit unincorporated association of transportation merchants within the State of New York to constitute a workers' compensation self-insurance group under New York State Workers Compensation Laws Section 50, subdivision 3-a. The Trust, which commenced operations on December 1, 2000, was created to make available a self-insured workers' compensation program for transportation merchants of the State of New York, to establish, maintain, promote and enforce sound safety programs, and to provide a cost-effective market in which transportation merchants may obtain workers' compensation insurance coverage. The Trust is administered by a third party administrator (Note 7).

During 2008, the Board of Trustees voted to voluntarily terminate their status as a group self insurer for the Trust effective December 31, 2008 due to changes in New York State Workers' Compensation Laws which adversely affected the Trust's ability to provide workers' compensation coverage to its members without exposing them to financial risks associated with other self-insured groups (Note 7). The plan to terminate was ratified by a vote of the membership on January 29, 2009. The Trust notified the NYS Workers' Compensation Board of its decision to terminate their status on November 25, 2008. Accordingly, the Trust no longer provides Workers' Compensation coverage.

The Trust has a contract with a third party administrator through December 2011 to manage the assets and liabilities of the Trust during their run off status.

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements. Estimates also affect the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents

The Trust considers cash and cash equivalents to be cash in the bank, money market funds and highly liquid securities with an original maturity of three months or less. From time to time, the Trust has on deposit with certain financial institutions, cash and cash equivalents which exceed the amount subject to federal deposit insurance. The Trust attempts to mitigate this risk by depositing its cash and cash equivalents with high credit quality financial institutions.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Investments

Investments in fixed maturities (U.S. Government and corporate obligations) are carried at fair value, based on quoted market prices. The Trust accounts for its investments in accordance with Statement of Financial Accounting Standard (SFAS) No. 115, "Accounting for Certain Investments in Debt and Equity Securities." The Trust holds all investments as available-for-sale, and as such unrealized holding gains and losses on investments are excluded from income and reported as a separate component of members' equity (deficit) until realized. Interest income is recognized when earned. Amortization of bond discount and premium is recorded using the straight line method over the period from purchase date to maturity. Net amortization of bond premiums and discounts resulted in a (reduction) increase of investment income of approximately (\$21,000) and \$29,000 for 2008 and 2007, respectively. Realized gains and losses for investments are included in income and determined using the specific identification method.

On January 1, 2008, the Trust adopted the provisions of SFAS 157, Fair Value Measurements, for financial assets. SFAS 157 establishes a hierarchy for inputs used in measuring fair value. Investments are valued and carried at fair value on a recurring basis and at December 31, 2008 and 2007, are valued at Level 1 inputs (quoted prices in active markets for identical assets or liabilities).

Contributions

Contributions earned are computed on a pro rata basis over the term of the underlying insurance certificates. All certificates issued by the Trust expire on December 31. The Trust provides for contribution adjustments to its members based upon actual payroll information and accrues such contributions in the year billed. Amounts received during the years ended December 31, 2008 and 2007 for payroll audits of previous years was approximately \$1,403,200 and \$1,813,300, respectively.

As disclosed in Note 1, effective January 1, 2009, the Trust no longer provides Workers' Compensation coverage. Contributions for 2009 are expected to be limited to adjustments arising from prior year payroll audits.

Loss and Loss Adjustment Expenses

The actuarially determined reserve for loss and loss adjustment expenses includes an amount determined from loss reports of individual cases and an amount for losses incurred but not reported. The Trust discounts its reserve for loss and loss adjustment expenses. Such reserves are necessarily based on estimates (and industry trends data) and, while management believes that the amount is adequate, the ultimate liability may vary significantly from the estimated amounts in these financial statements and could have a material effect on Members' equity (deficit) in future periods. The methods for making such estimates and for establishing the resulting reserve are continually reviewed, and any adjustments are reflected in operations in the year of the change.

The reserve for loss and loss adjustment expenses includes an estimate for certain New York State assessments and charges. Recent changes in New York State legislation during both 2008 and 2007 have had a material impact on these estimates (Note 7).

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 2 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

New York State Assessments

During June 2008, legislation was passed regarding the billing of certain New York State Assessments for self-insured groups. The legislation stipulated that, effective January 1, 2009, assessments for certain sections, will be billed to self-insured groups based on paid indemnity. An impact of the change on the December 31, 2008 financial statements was an increase to the reserve for Loss and Loss Adjustment Expenses.

In March 2007, legislation was passed regarding the billing of all New York State assessments for self-insured groups. The legislation stipulated that effective January 1, 2008, all assessments will be billed to self-insured groups based on prior year premium rather than paid indemnity. An impact of the change on the December 31, 2007 financial statements was a decrease to the reserve for Loss and Loss Adjustment Expenses and an increase to Accrued New York State assessments.

Dividends to Members

It is the policy of the Trust to declare on an annual basis, dividends payable to members equal to what would otherwise be taxable income to minimize the income tax exposure of the Trust. The actual payment of the dividends is based on the profit or loss within a policy year and the Trust as a whole. The Trust's intent is to wait two years after the close of a policy year before making any dividend payments on the policy year. If the policy year is profitable, the Trust authorizes payment of a portion of the available surplus for the policy year to members in good standing for the year. The remaining surplus on the policy year is paid in subsequent years.

Prior to the payment of dividends the Trust must notify the Workers' Compensation Board and receive written authorization.

Previously declared but unpaid dividends may be rescinded. During 2008, the Trust rescinded previously declared dividends of \$1,756,699.

Income Taxes

When applicable, Federal and state taxable income is eliminated through the declaration of dividends to members and therefore deferred tax assets and liabilities are not recognized by the Trust. The Trust is not subject to a New York State premium tax.

The Trust's income tax returns are subject to examination by taxing authorities. The application of tax laws and regulations to many types of transactions are susceptible to varying interpretations. Consequently, amounts reported in the financial statements could be revised at a later date upon final determinations by taxing authorities. Although the tax treatments reflected in the financial statements are believed to be appropriate, material adjustments could result if reporting of certain transactions were successfully challenged by taxing authorities.

At December 31, 2008, the Trust has net operating loss carryforwards of approximately \$7,000,000 available to offset future taxable income. Deferred tax assets related to these net operating losses at December 31, 2008 of approximately \$2,700,000 have been fully offset by a valuation allowance due to the uncertainty as to their realizability. The net operating losses begin to expire in 2023. The Trust has no other deferred tax assets or liabilities.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 3 — INVESTMENTS

The amortized cost, fair value and gross unrealized gains and losses of investments by major security type at December 31, 2008 and 2007 are as follows:

	2008			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. Government obligations	\$ 40,232,881	\$ 2,651,450	\$ 14,632	\$ 42,869,699
Corporate obligations	<u>12,118,812</u>	<u>102,505</u>	<u>303,657</u>	<u>11,917,660</u>
	<u>\$ 52,351,693</u>	<u>\$ 2,753,955</u>	<u>\$ 318,289</u>	<u>\$ 54,787,359</u>
	2007			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. Government obligations	\$ 39,282,629	\$ 860,904	\$ 65,649	\$ 40,077,884
Corporate obligations	<u>10,657,916</u>	<u>111,452</u>	<u>38,645</u>	<u>10,730,723</u>
	<u>\$ 49,940,545</u>	<u>\$ 972,356</u>	<u>\$ 104,294</u>	<u>\$ 50,808,607</u>

Proceeds from the sale and maturity of investments were \$16,583,416 for the year ended December 31, 2008, resulting in gross realized gains of \$324,192 and realized losses of \$265,942. Proceeds from the sale and maturity of investments were \$9,091,270 for the year ended December 31, 2007, resulting in gross realized gains of \$89,088 and realized losses of \$960.

The scheduled maturities of fixed maturity investments at December 31, 2008 are as follows:

	Amortized Cost	Fair Value
Due less than one year	\$ 8,088,803	\$ 8,183,159
Due after one year through five years	22,838,966	23,506,163
Due after five years through ten years	14,360,435	15,674,655
Thereafter	<u>7,063,489</u>	<u>7,423,382</u>
Total	<u>\$ 52,351,693</u>	<u>\$ 54,787,359</u>

As discussed in Note 7 during 2008 the Trust pledged \$1,125,000 in investments as collateral for the surety bond as of December 31, 2008.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 4 — RESERVE FOR LOSS AND LOSS ADJUSTMENT EXPENSES

The components of the reserve for loss and loss adjustment expenses at December 31, 2008 and 2007:

	<u>2008</u>	<u>2007</u>
Reserve for reported losses	\$ 33,607,633	\$ 26,425,825
Reserve for incurred but not reported losses	<u>27,610,797</u>	<u>23,537,533</u>
Total reserve for loss and loss adjustment expenses	<u>\$ 61,218,430</u>	<u>\$ 49,963,358</u>

To reflect the time value of money, the reserve for loss and loss adjustment expenses has been discounted using an interest rate of 4.25% and 4.5% at December 31, 2008 and 2007, respectively. The undiscounted reserve as of December 31, 2008 and 2007 was \$71,521,151 and \$58,466,660, respectively.

The following table presents an analysis of the reserve for loss and loss adjustment expenses, including an estimate of future losses and a reconciliation of beginning and ending reserve balances for 2008 and 2007. The reserve is stated on a net basis after deductions for losses receivable from reinsurers and subrogation.

	<u>2008</u>	<u>2007</u>
Discounted reserve for loss and loss adjustment expenses, beginning of year, gross	\$ 49,963,358	\$ 42,910,958
Less: reinsurance recoverable, beginning of the year	(1,133,471)	-
Less: reinsurance receivable, beginning of the year	<u>(2,412,448)</u>	<u>(1,887,933)</u>
Discounted reserve for loss and loss adjustment expenses, beginning of the year, net	<u>46,417,439</u>	<u>41,023,025</u>
Incurred provision for loss and loss adjustment expenses		
Provision for insured events of the current year	21,907,669	18,691,160
Increase in provision for insured events of prior years	<u>7,453,104</u>	<u>1,918,110</u>
	<u>29,360,773</u>	<u>20,609,270</u>
Payments		
Loss and loss adjustment expenses attributable to insured events of the current year	(3,505,317)	(3,164,193)
Loss and loss adjustment expenses attributable to insured events of prior years	<u>(13,759,013)</u>	<u>(12,050,663)</u>
	<u>(17,264,330)</u>	<u>(15,214,856)</u>
Discounted reserve for loss and loss adjustment expenses, end of year, net	58,513,882	46,417,439
Add: reinsurance recoverable, end of the year	1,438,265	1,133,471
Add: reinsurance receivable, end of the year	<u>1,266,283</u>	<u>2,412,448</u>
Discounted reserve for loss and loss adjustment expenses, end of the year, gross	<u>\$ 61,218,430</u>	<u>\$ 49,963,358</u>

The increase in the provision for insured events of prior years for 2007 includes an approximate increase (decrease) of \$1.9 million and (\$9.5 million) related to changes in New York State assessments included in the reserve for loss and loss adjustment expenses.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 4 — RESERVE FOR LOSS AND LOSS ADJUSTMENT EXPENSES (Continued)

Included in loss and loss adjustment expenses incurred in the statement of operations is subrogation received of \$576,525 and \$1,340,591 for the years ended December 31, 2008 and 2007, respectively.

Effective January 1, 2009, the Administrative Agreement was amended to meet the needs of the Trust based on its voluntary termination of their status as a group self-insurer (Notes 1 and 7). The agreement calls for the Administrator to be paid for claims management on an annual fee per claim basis. The reserve for loss and loss adjustment expenses includes an estimate of the claims portion of the costs to administer the Trust after December 31, 2008.

NOTE 5 — DISTRIBUTIONS TO MEMBERS

During the years ended December 31, 2008 and 2007, the Trust (reduced) declared dividends in the amount of (\$1,756,699) and \$1,756,699 based upon review of prior year claims experience. No dividends were paid during 2008 or 2007.

NOTE 6 — EXCESS INSURANCE

The Trust through the Administrator, has obtained specific and aggregate excess insurance from an outside carrier. Under this arrangement, the Trust's losses in excess of approximately \$38,400,000 in aggregate or \$750,000 per accident per insured will be covered by the excess insurance.

In the event the Trust's excess insurer is unable to meet its obligations under the excess insurance agreement, the Trust would continue to have primary liability to members for losses incurred.

NOTE 7 — COMMITMENTS AND CONTINGENCIES

Management Agreement and Commissions

The Trust has entered into an Administrative Agreement with a third-party administrator ("Administrator") which expires December 31, 2011. Through December 31, 2008, the Administrator provided various services including loss control, claims management, marketing, accounting and general administration. The Administrator was paid fees based on a percentage of the total annual contributions earned, with a prescribed minimum for November and December of 2008. The Administrator also received a commission for obtaining insurance coverage for the Trust. The Trust incurred management fees and commission expense of \$4,828,774 and \$5,103,364 for the years ended December 31, 2008 and 2007, respectively.

Through December 31, 2008, the Administrator also acted as a sales broker and along with other agent's recruited transportation merchants as members of the Trust. For the years ended December 31, 2008 and 2007, the Trust incurred commission expense to the Administrator and agents of \$1,875,603 and \$2,134,438 respectively.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 7 — COMMITMENTS AND CONTINGENCIES (Continued)

Management Agreement and Commissions (Continued)

Effective January 1, 2009, the Administrative Agreement was amended to meet the needs of the Trust based on its terminated status (Note 1). The agreement calls for the Administrator to be paid for claims management on an annual fee per claim basis. The reserve for loss and loss adjustment expenses includes an estimate of the claims cost portion of the dissolution costs. Administrative services relating to accounting and billing services performed during the run off period will be billed to the Trust on an hourly basis.

Surety Bond

As is customary in a workers' compensation regulatory structure, the Trust is required to provide a surety bond (the "Surety Bond") to the Trust's state regulator as a condition to conducting workers' compensation business in the State. Accordingly, the Trust is the principal on a Surety Bond Pledged to the State of New York in the amount of \$1,125,000. Should the State have to draw on the Surety Bond, the Trust is obligated to reimburse the surety company for any losses and costs incurred by them, up to the maximum amount of the Surety Bond. The Trust pledged \$1,125,000 in investments as collateral for the surety bond during 2008. Effective January 1, 2006 through March 2009, the Trust's Administrator, which is also the broker on the Trust's surety bond obligations, provided the surety company with supplemental indemnification to cover any of the costs should the State draw on the Surety Bond.

Indemnity Agreement

The Trust has entered into an indemnity agreement with each member to provide risk management services and workers' compensation and employer's liability coverage. The agreement stipulates, among other things, that each member is jointly and severally liable for the workers' compensation and employer's liability obligations of the Trust and its members which were incurred during the member's period of membership in the Trust, irrespective of the subsequent termination of the member's membership in the Trust, the insolvency or bankruptcy of another member of the Trust, or other facts or circumstances. However, recourse for any and all payments of workers' compensation and employer's liability benefits covered by the Trust's certificate of coverage to a member shall first be made from the Trust's assets.

New York State Assessments

Under New York State regulatory laws, the Trust is required to pay for its share of various assessments to the Workers' Compensation Board (the "Board") for certain obligations, including but not limited to the costs of the Board's operations, for second injury funds, and for uninsured claimants. Typically, such assessments are allocated to the Trust based upon its proportion of business written in New York State. As a self-insured group Trust in New York State, the Trust may be subjected to additional assessments.

Through an assessment under Section 50-5 of the New York State Workers' Compensation Law, the Board has taken the position that the Trust is obligated to contribute a share of anticipated losses of self-insurance groups that are in default, have closed or have otherwise failed to meet their obligations. The Board has not declared that there is any limit to the Trust's potential assessments for such failed self-insurance groups.

**NY TRANSPORTATION
WORKERS' COMPENSATION TRUST
NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007**

NOTE 7 — COMMITMENTS AND CONTINGENCIES (Continued)

New York State Assessments (Continued)

An estimated reserve for the Trust's exposure to the anticipated losses of the defaulted trusts has been included in the reserve for loss and loss adjustment expenses. The Trust's Board is currently challenging the Board's authority to assess the Trust for its share of the liabilities of the defaulted trusts through various judicial actions.

New York State regulatory law was passed in July 2008 which stipulated that all trusts, both active and inactive, pay certain premium based assessments during any State fiscal years in which the trust made indemnity claim payments. The premium based assessments will be determined based on a "factor" of premium in the Trust during its last active year. The amount and extent of these assessments cannot be determined. Accordingly, no reserve for future premium based assessments has been recorded in the financial statements as of December 31, 2008. The Trust is currently challenging the constitutionality of these assessments.

NOTE 8 — RELATED PARTY TRANSACTIONS

All Trustees on the Board are employed by covered members of the Trust. Each Trustee receives a nominal fee for serving on the Board; during 2008 and 2007, these fees totaled \$101,300 and \$39,100, respectively. Trustees are also reimbursed for travel costs incurred to attend the meetings.